

**APPLICATION OF COLLEEN MARIE DOLAN TO THE
APPELLATE JUDICIAL COMMISSION FOR THE
JUDGE COHEN VACANCY
MISSOURI COURT OF APPEALS, EASTERN DISTRICT**

***RESPONSES TO THESE QUESTIONS, INCLUDING ATTACHMENTS THERETO,
WILL BE MADE PUBLIC IF THE APPLICANT IS NOMINATED FOR THIS VACANCY***

1. Present principal occupation or title: **Circuit Judge, 21st Judicial Circuit**

2. Are you at least 30 years of age? Yes (**X**) No ()

3. (a) How many years have you been a citizen of the United States? **58**

(b) How many consecutive years immediately preceding your application have you been a qualified voter of Missouri? **37**

4. State the date you were admitted to The Missouri Bar and whether your license is in good standing. If not, explain in detail. **1984. My license is in good standing.**

5. List any other states, courts, or agencies in which you are licensed as an attorney.
None.

6. (a) State the name and address of all colleges and universities attended, other than law school, together with the dates and degrees received.

**University of Missouri – St. Louis
One University Boulevard
St. Louis, MO 63121**

1975-1981, B.S. Administration of Justice

- (b) List/describe any college or university activities, scholastic achievements and other awards or honors you think are relevant to the commission's decision.

I was employed part-time my first two semesters at UMSL and full-time from 1976-1981 as a payroll and accounts payable clerk. I went to school at night and my salary allowed me to pay for my tuition without having to apply for loans and also allowed me to move into an apartment and support myself. I believe this taught me the value of education, self-reliance, and hard work.

7. (a) State the name and address of all law schools attended together with the dates and degrees received.

**Saint Louis University School of Law
100 N. Tucker Boulevard
St. Louis, MO 63101**

1981-1984, Juris Doctor

- (b) List/describe any law school activities, scholastic achievements and other awards or honors you think are relevant to the commission's decision.

- **Everett Hullverson Award in Recognition of Proficiency in Trial Advocacy, 1983-1984**
- **Superior Achievement in Trial Advocacy, 1983-1984**
- **School of Law representative in ABA Regional Mock Trial Competition in Iowa, 1984**

8. State, in chronological order (starting with the earliest employment) (a) significant non-law-related employment prior to law school and (b) all employment from the beginning of law school to the present. To the extent reasonably available to you, include the name and address of each employer and the dates of employment, and, for legal employment, describe the positions you have held, e.g., associate, partner, law clerk, general counsel.

**1975-1981 The Orchard Corporation of America, Crestwood, MO
(no address or phone number could be located)**

1981-1983	Bazdarich, Flesher & Associates, Inc., Chesterfield, MO (no address or phone number could be located)
1983-1984	Saint Louis University School of Law 100 N. Tucker Boulevard St. Louis, MO 63101 Fellow to Professor Doreen Dodson, Civil Practice
1984-1985	Darrill S. Beebe, Attorney at Law, St. Charles, MO (no address or phone number could be located) Associate attorney
1985-1994	Fischer & Dolan, P.C. (f/k/a David O. Fischer, P.C.) 818 Lafayette Avenue St. Louis, MO 63104 Hired as an associate attorney, became partner
1992-1994	City of Ellisville, MO 1 Weis Avenue Ellisville, MO 63011 Municipal Court Judge
1994-1999	Associate Circuit Judge, 21st Judicial Circuit St. Louis County Circuit Court Division 32 105 S. Central Avenue Clayton, MO 63105
1996-1997	Saint Louis University School of Law Adjunct Professor – Trial Advocacy
1999-present	Circuit Judge, 21st Judicial Circuit St. Louis County Circuit Court Division 20 105 S. Central Avenue Clayton, MO 63105

9. If, as a student, you were suspended, placed on probation or expelled by school authorities for any reason, describe the circumstances.

I was never suspended, placed on probation, or expelled by school authorities.

10. Describe the nature of your experience in trial and appellate courts and explain how they demonstrate the quality of your legal work. (*You either may take as much space as you need here or attach your response on separate sheets. It is your responsibility to redact any confidential information.*) Include in your response:
- a) **Appellate Experience:** Please include a representative list of cases you have briefed and/or argued (if you are a judge, include representative cases from your practice prior to your judicial appointment) including, to the extent reasonably available to you, the style, date, and court and, if published, the citation; identify the client(s) you represented and opposing counsel; give a one-paragraph description of the case and your role.

State of Missouri v. Harvey White, 835 S.W.2d 942 (Mo. App. E.D. 1992)

I wrote and argued appellant's brief; the State was represented by AAG John Morris. I also represented appellant at trial. He was convicted by a jury of first-degree robbery and armed criminal action, and his convictions were affirmed on appeal.

State of Missouri v. Ronald Oliver, 775 S.W.2d 308 (Mo. App. E.D. 1989)

I was lead counsel on appellant's brief; the State was represented by AAG Karen King. My partner, David O. Fischer, represented appellant at trial. He was convicted by a jury of first-degree murder, first-degree assault, and kidnapping. At trial, the State was allowed to use a prior statement of a witness as substantive evidence against appellant. Section 491.074 RSMo allowed a prior inconsistent statement to be used as substantive evidence, not merely for impeachment. However, the witness at trial denied ever having made the alleged statement. The appellate court agreed that, when a witness denies making a prior inconsistent statement, or declines to submit to cross-examination, it is error to admit the statement as substantive evidence. Nevertheless, the court held that admission of the prior statement was not prejudicial in light of other substantial evidence of guilt, and appellant's convictions were affirmed.

State of Missouri v. Willie Luckett, 770 S.W.2d 399 (Mo. App. E.D. 1989)

I wrote and argued appellant's brief; the State was represented by AAG Breck Burgess. My partner, David O. Fischer, represented appellant at trial. He was convicted by a jury of first-degree murder, and his conviction was affirmed.

State of Missouri v. Aubrey Lawson, 704 S.W.2d 270 (Mo. App. E.D. 1986)

I wrote and argued respondent's brief; the State was represented by ACA Edwin Butler. The trial court granted respondent's motion to suppress evidence. The State appealed, and the trial court's finding that the evidence was seized as the result of an unlawful search was affirmed.

- b) **Trial-Level Experience:** Please include a representative list of cases and/or administrative hearings you have handled (if you are a judge, include representative cases from your practice prior to your judicial appointment) including, to the extent reasonably available to you, the style, date, and court; identify who you represented and opposing counsel; state whether the case was disposed of following a jury trial, bench trial or at what other stage; give a one-paragraph description of the case and your role.

State of Missouri v. Eric X.

Jury trial in 1986 in the City of St. Louis; opposing counsel unknown. I represented defendant who was charged with misdemeanor possession of marijuana. Police officers testified defendant was stopped and questioned for loitering and while being “frisked” for weapons for the officers’ safety, defendant dropped a baggie of marijuana on the ground. The jury found defendant not guilty.

State of Missouri v. Charles Y.

Jury trial in 1986 in the City of St. Louis; the State was represented by ACA Jane Geiler. I represented defendant who was charged with burglary; a witness testified she saw him climb her neighbor’s fence and a short time later, he dropped a fireplace mantle and other household fixtures over the fence. A taxicab driver testified he dropped defendant off at that residence and was told to wait; however, the driver left when he saw defendant hop the fence. Defendant was arrested at the scene, and the back door of the residence was found to have been jimmied open. The jury found defendant not guilty.

State of Missouri v. Arthur P.

Jury trial in 1986 in the City of St. Louis; the attorney representing the State is unknown. I represented defendant who was charged with stealing heavy equipment from his employer. The jury found him not guilty.

State v. Eva W.

Jury trial in 1987 in the City of St. Louis; the attorney representing the State is unknown. I represented defendant who was charged with unlawful use of a weapon. Defendant’s purse was run through the x-ray machine at the entrance to the Circuit Court of the City of St. Louis’ criminal courthouse, and a loaded handgun was discovered inside it. The jury found defendant not guilty.

State v. Reginald Akins, 829 S.W.2d 619 (Mo. App. E.D. 1992)

Jury trial in 1991 in the City of St. Louis; the State was represented by ACA Tony Gonzalez. I represented defendant who was charged with first-degree murder, first-degree robbery, and tampering with a motor vehicle. On the day of trial, the murder charge was amended to murder in the second degree, felony murder. The jury found defendant guilty on all charges, and his convictions were affirmed on appeal. His petition for post-conviction relief was denied, and the trial court found no ineffective assistance of counsel. The trial court's post-conviction ruling was affirmed on appeal.

State v. Stanford Greenwood, 22921-03507-01

Jury trial in 1994 in the City of St. Louis, the State was represented by ACA Edward Sweeney. I represented defendant who was charged with first-degree robbery. The jury found defendant guilty, and his conviction was affirmed on appeal. His petition for post-conviction relief in cause number 2294P-03270 was denied, and the trial court found no ineffective assistance of counsel. The trial court's post-conviction ruling was affirmed on appeal.

- c) **Judicial Experience:** If you are a judge, commissioner, or are serving or have served in other judicial capacity, please describe the nature and extent of your judicial responsibilities, including the dates you have served as a judge at each level, the types of dockets you have handled, and any special expertise you have developed that you believe is relevant to your qualifications for the position for which you are applying.

1992-1994 Municipal Judge, Ellisville

I handled violations of the city's ordinances, mainly traffic offenses. Most of the defendants in municipal court are not represented by attorneys. In addition, the contact the defendants have with the municipal court judge may be the only contact with a judge they will ever have. It is important that defendants leave court with a favorable impression of our system of justice, no matter the outcome in their particular case. I always remembered that as I spoke to each defendant each night in municipal court, I was the face of the Missouri judiciary to many of those people, and I wanted them to leave believing that justice was delivered fairly and even-handedly in our courts.

1994-1999 Associate Circuit Judge, St. Louis County

My first assignment was “bulk” civil; these dockets have well over one hundred cases each morning. They consist of landlord/tenant, unlawful detainer, debt collection, and other cases in which the amount of damages sought is less than \$25,000. It is important to move through these dockets expeditiously; the attorneys in these dockets expect their cases to be dealt with quickly and fairly, and the unrepresented litigants are missing work or other personal commitments while they wait for their cases to be called. I took the bench promptly at the time the docket was set and moved through the cases quickly so that people in the courtroom would know that I respected their time. I learned to balance the need to keep the docket moving with the need to give each case the consideration it deserved. Some of the dockets in that assignment were “small claim” dockets which were cases under \$3,000 at that time. Rarely were the litigants represented by attorneys and when I called them up to the bench to present their cases, it was easy to see that it was no “small claim” to them. This case was usually the most important and pressing thing in the litigants’ lives at that time, and as I heard and decided their cases, I was always mindful they deserved respect, consideration, and a quick ruling from the court.

In 1996, I was assigned to Family Court where I presided over dissolutions, paternity actions, contempt matters, and petitions for orders of protection. These matters are usually the most contentious in any judge’s experience. People are hurting and emotions can be raw; a custody battle may well be the most difficult trial any judge has to decide. Sometimes the attorneys get caught up in that emotion and become nearly as volatile as their clients. I learned that here, more importantly than anywhere else, a judge must maintain a calm demeanor and try to bring the temperature of the room down a few degrees. If I felt myself losing patience, I would take a short recess and a few deep breaths to calm myself so that I didn’t contribute in any way to the acrimony.

1999-present Circuit Judge, St. Louis County

Since becoming a circuit judge, I have been assigned to a jury trial division. I handle civil and felony jury trials, bench trials when the parties have waived a jury, and equity cases. I have presided over trials alleging breach of contract, personal injury, medical negligence, violations of the Missouri Merchandising Practices Act, wrongful death, as well as cases seeking injunctive relief and suits for partition of real estate. I have presided over trials in which defendants are charged with felony offenses ranging from stealing to murder. I also rule on any and all motions filed in any of the

previously-referenced cases, including discovery motions, motions for summary judgment, motions in limine, and motions to suppress evidence, statements, or identification. The cases are entirely my responsibility from the date of filing, or from arraignment in felony cases, until the last post-trial motion has been ruled on.

In 2005 and continuing to the present day, in addition to my trial court duties, I was assigned to preside over the St. Louis County Drug Court. In drug court, a non-violent felony offender who has committed the offense as a result of substance abuse or addiction is given the opportunity to have the charges dismissed upon successful completion of the program. The program lasts a minimum of 15 months and requires regular court appearances and meetings with a probation officer, intensive substance abuse treatment, completion of community service, and regular employment. I meet each week with the drug court team members to go over the progress of each participant scheduled to appear on the docket. Every Friday morning, I call the participants up individually to the bench to discuss their status and congratulate, encourage or sanction them, depending upon their circumstance. Upon successful completion, I preside over the graduation ceremonies which are attended by their family and friends. Those 40 evenings are undoubtedly the happiest times I have spent in court.

The most important thing each of these assignments has taught me is the importance of listening. Attorneys and self-represented litigants want the same thing: to believe that the person deciding the issue is listening to their side.

In 2002, I was assigned to sit as a special judge on *State ex rel. Ford Motor Co. v. Messina*, 71 S.W.3d 602 (Mo. banc 2002), a case pending before the Missouri Supreme Court. This was a products liability case and the issue was when the top officers in the hierarchy of a corporation could be deposed. The defendant corporation urged the court to adopt an “apex” rule, under which top executives could only be deposed after the information was pursued by less intrusive means, or if the executive has special or unique knowledge. The Court’s decision, which I concurred in, declined to adopt an “apex” rule and noted that Rules 56.01(b)(1) and 56.01(c) spoke to the issue in the case; the trial court was ordered to consider whether the information sought could be obtained by less intrusive means and balance the proponent’s need for the deposition of a top official against the burden, expense, annoyance, and oppression to the corporation.

11. Describe any additional legal experience that you believe may be relevant to the decision of the commission (e.g., work as a law professor, in government, as corporate or other legal counsel).

In 1996 and 1997, I was honored to be asked to teach trial advocacy at Saint Louis University School of Law, and I taught that course as an adjunct professor for those two years. I believe courses such as trial advocacy, moot court, client counseling, and clinical courses in civil and criminal practice are a necessary and vital part of a law school education and help the law student transition into a competent practicing attorney.

In 1996, I was one of six associate circuit and municipal court judges selected by the Missouri Supreme Court to attend the National Judicial College in Reno, Nevada. We, along with Missouri Department of Revenue and Missouri State Highway Patrol employees, attended a four-day course to teach us how to be effective teachers to others. We then created a CLE seminar on recent changes to Missouri law in the areas of driving while intoxicated and drivers' license suspension and revocation as a result of intoxication-related driving offenses and presented those seminars to judges around the state.

In 2013, I became an ASTAR (Advanced Science and Technology Adjudication Resources) Fellow. Increasingly, the cases over which judges preside include complex business, technological, or scientific issues. ASTAR's mission is to unite science and justice by educating judges through a longer connection with general scientific information so that they have more familiarity with the issues when faced with them at trial.

I am currently the Assistant Presiding Judge of the Circuit Court of St. Louis County. I was first elected to that position for a two-year term by the judges in my circuit in 2013, and I was re-elected to the position in 2015.

12. List all bar associations and other professional societies of which you are a member, with any offices held and dates.

- **Missouri Bar Association**
- **St. Louis County Bar Association**
- **Bar Association of Metropolitan St. Louis (BAMSL)**
- **Lawyers Association of St. Louis**
- **Women Lawyer's Association**
- **Missouri Circuit Judges Association**

- **Missouri Association of Probate and Associate Circuit Judges, 1994-1999**
- **Missouri Municipal and Associate Circuit Judges Association; Secretary, 1996-1997; Vice-President, 1997-1998**

13. Describe your efforts (e.g. work on bar committees, pro bono efforts, CLEs presented, etc.) to contribute to the improvement of the law, the legal system and the administration of justice.

I try to accept any invitation extended to me to present at CLE seminars. I recognize it is difficult sometimes for attorneys to schedule CLE's into their busy practices, and it is important for there to be many opportunities to accommodate them.

Some of the CLE's at which I have presented:

- **Ethical Issues in the Courtroom, BAMSL Bench and Bar, 2015**
- **Preserving the Record at the Trial Court, BAMSL Mastering Appellate Advocacy, 2014**
- **Civil Court Judicial Forum, National Business Institute, Civil Trial, Pre-Trial and Post-Trial Issues, 2013**
- **What Criminal Court Judges Want You to Know, National Business Institute, 2012**
- **What Civil Court Judges Want You to Know, National Business Institute, 2009**
- **Labor and Employment Law Symposium, MoBarCLE, 2005**
- **Opening Statements and Closing Arguments and Motions Advocacy Skills Seminar, UMKC School of Law, 1999**
- **Associate Circuit Division Civil Practice Program, MoBarCLE, 1997**
- **Potpourri for the General Practitioner, BAMSL, 1996**

I have been appointed to the Missouri Supreme Court committees on Alternative Dispute Resolution, Family Court, and Subcommittee on Training and Certification of Municipal Judges. As a member of the Subcommittee, each year I taught new municipal judges who were not licensed attorneys at a mandatory course on municipal courts and the responsibilities and duties of a municipal court judge.

On multiple occasions, I have taught new state court trial judges at New Judge Orientation and all state court judges at the Trial College held twice each year. In addition, as a member of the Missouri Municipal and Associate Circuit Judges Association, I taught municipal judges at regional CLE seminars held around the state three times each year from 1995-1999.

14. List your community activities, including any organizations not listed elsewhere with which you are affiliated.

- **Former Girl Scout Leader, St. Clare of Assisi Catholic Church**
- **Action for Autism, supporter and volunteer**
- **Donate school supplies and uniforms each year for children in economically disadvantaged areas**
- **Donate Christmas presents for families utilizing the services of the Crisis Nursery**

15. Describe your activities (e.g. speeches, presentations, educational activities, etc.) undertaken to further public understanding of and respect for courts and the judicial system and to promote access to justice for all.

I have spoken to elementary and middle school students in the Parkway and Rockwood School districts on the judicial branch of government and the non-partisan court plan on several occasions. State Senator John Loudon and I worked together to teach my parish Girl Scout troop about the legislative branch of government and his youth group about the judicial branch. I obtained mock trial materials suitable for their age group and brought them to my courtroom in the St. Louis County courthouse to “try” their cases. The children loved it and so did their parents who were invited to watch. We did this for several years.

For the past seven years or so, I have worked in conjunction with Saint Louis University School of Law in their Judicial Extern Program. Each semester a law student is assigned to my division for approximately twelve to fifteen hours a week. They sit in chambers and observe motion hearings, and they are seated near the bench during trials so that they can see and hear everything that goes on during a trial. We discuss what they have learned and any questions they have. They are also assigned to write a legal memorandum for me on one or two motions they have heard, recommending how the motion should be ruled and why. It is a wonderful program that helps prepare the students for the practice of law in the courtroom and provides an education that they cannot get sitting in the classroom. In the last several years, the University of Missouri-Columbia School of Law has sent students to spend a week or two with me over winter break to do a shorter version of the same program. These students do not get course credit but have told me they want to participate to see how “real” lawyers practice.

16. List any professional articles or books authored by you that have been published or any special recognition or award of a professional nature you have received.

In 1993, I received a Certificate of Appreciation from the Volunteer Lawyers Program of Legal Services of Eastern Missouri, Inc. for Outstanding Volunteer Service on Behalf of Clients Seeking Orders of Protection.

In 1999, I received an award from the Missouri Municipal and Associate Circuit Judges Association in appreciation for the years of effort and devotion to the association.

17. Do you now hold or have you ever held an elective or an appointive public office or position? If yes, provide details.

I am currently a Circuit Judge in Division 20 of St. Louis County Circuit Court. I previously served as an Associate Circuit Judge in Division 32 of St. Louis County Circuit Court from 1994-1999 and as Municipal Court Judge for the City of Ellisville from 1992-1994.

18. Provide the branches and dates of (a) military service or (b) other public service not otherwise disclosed in this application. If discharged from the military, state whether the discharge was other than honorable.

N/A

19. State whether you are able, with or without a reasonable accommodation, to perform the essential functions of being an appellate judge, including participating in oral argument; performing legal research; communicating clearly and effectively, both orally and in writing; supervising the lower courts, serving on court committees and performing other administrative functions; and expeditiously deciding issues coming before the court.

I am able to perform all essential functions of being an appellate judge, including all of those set out above.

20. Were you ever refused admission to the bar of Missouri or the bar of another state or the federal courts? If yes, provide details.

No.

21. Have you ever been disciplined, admonished or cited for breach of ethics or professional conduct by the Supreme Court of Missouri or by any court or bar association or committee thereof? If yes, provide details.

No.

22. If you are or were a member of the judiciary of the State of Missouri, please state:

- a) Whether an order of discipline ever has been entered against you by the Supreme Court of Missouri for breach of the Code of Judicial Conduct or the Canons of Judicial Conduct. If yes, provide details.

No.

- b) Whether a reprimand or admonition ever has been entered against you by the Commission on Retirement, Removal and Discipline for any of the causes specified in Supreme Court Rule 12.07. If yes, provide details.

No.

23. Have you have ever been held in contempt of court? If yes, provide details.

No.

24. Have you ever been sued by a client or been a party to any other litigation, other than as guardian ad litem, plaintiff ad litem, or defendant ad litem?

Yes. I was the petitioner in a dissolution of marriage.

If your answer is yes, state the style of the case, where it was filed, and explain in

detail. If you are a judge and you have been sued in your judicial capacity, list only those cases where you are or were other than a nominal party.

***C.D.T. v. D.K.T.*, 98FC-000433, filed in St. Louis County Circuit Court and disposed as a non-contested dissolution in 1998.**

25. Have you ever pleaded guilty, been convicted or received a suspended imposition of sentence for a felony or misdemeanor in state, federal or military court? (*Note that this question does not require that minor traffic offenses or other infractions be listed.*)

No.

If your answer is yes, state the style of the case, where it was filed, and explain in detail.

26. Are you delinquent in the payment of any federal, state, county or city taxes? If yes, provide details.

No.

27. You must attach to this application at least one, but not more than three, writing samples that comply with the requirements set out in the instructions for applicants.

Attached are excerpts of an appellate brief I wrote in 1989, a judgment I entered following a bench trial in 2010, and an order I entered in 2011 on a motion for summary judgment.

28. List/describe any additional honors or awards you have received, activities you have performed, or any other information not set out above that demonstrates the quality of your work as an attorney or that you otherwise believe is relevant to the commission's decision.

One incident in criminal court has stuck with me over the years. I had finished taking the last guilty plea on a docket with many confined defendants. Each one of them is brought up to the bench by an officer. The officer and the bailiff stand behind the defendant as I question him or her about the facts of the offense and their understanding of their rights. When the last defendant was taken back to his seat, the corrections officer returned to the bench and quietly asked if he could make a comment. He told me he had noticed over the months working in my court that I looked at every defendant as I asked my questions. He said many judges look down, read the questions out loud, and never look up at the defendants' faces. He told me he could tell I respect people and that he wanted me to know that he felt that was important. It taught me that my demeanor can convey things that I may not always be aware of, and that people are always watching.

I have had the privilege of being a member of the Missouri Bar and of serving the citizens of Missouri as a Municipal Court Judge, Associate Circuit Judge, and Circuit Judge. It would be an honor for me to be allowed to continue this service as a Judge of the Missouri Court of Appeals, Eastern District.

Please list the names of **five** persons whom you will ask to provide letters of reference for you with respect to your judicial qualifications. Do **not** list as a reference a judge of the court involved. As to each of the (5) references, **please provide name, title, mailing address, telephone and e-mail address.**

1. The Honorable Carolyn C. Whittington
Circuit Judge, 21st Judicial Circuit
St. Louis County Circuit Court, Division 7
105 S. Central Avenue
Clayton, MO 63105
314-615-1507
Carolyn.Whittington@courts.mo.gov
2. The Honorable Christopher McGraugh
Circuit Judge, 22nd Judicial Circuit
St. Louis City Circuit Court, Division 15
10 N. Tucker Boulevard
St. Louis, MO 63101
314-622-4453
Christopher.McGraugh@courts.mo.gov
3. Matthew J. Padberg
Attorney at Law
Padberg, Corrigan and Appelbaum
1926 Chouteau Avenue
St. Louis, MO 63103
314-621-2900
mjp@padberglaw.com
4. Thomas E. Schwartz
Attorney at Law
Holloran, Schwartz and Gaertner
2000 S. 8th Street
St. Louis, MO 63104
314-772-8989
Tschwartz@holloranlaw.com
5. Ms. Glenda Gill
(Former Treatment Court Administrator, St. Louis County Court)
1141 Rockman Place
St. Louis, MO 63119
314-401-7660
glendagill@sbcglobal.net